



PATENT

16032.902140

Express Mail Label No. EV 518006118 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

MURAYAMA, Yuicgu, et al.

Serial No: 09/890,799

Filed: 3 August 2001

For: THERMO-REVERSIBLE POLYMER FOR
INTALUMENAL INPLANT

Art Unit: 7938

Examiner: L. Di Nola Baron

**PETITION PURSUANT TO 37 C.F.R. § 1.17(L) FOR
REVIVAL OF AN UNAVOIDABLE ABANDONED
APPLICATION AND CONDITIONAL PETITION
FOR EXTENSION OF TIME**

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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as Express Mail in an envelope addressed to:

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Name

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Signature

Date

Dear Sir:

In accordance with 37 C.F.R. § 1.17(l), Applicants respectfully petition for revival of the above-identified patent application which became unavoidably abandoned on 8-June-2004 (this is a presumed date based on the Office Action date—we did not actually receive the Office Action until 27-July-2004, and we have never received a Notice of Abandonment. The present application became abandoned as a result of United States Patent and Trademark Office error. Enclosed herewith is an Amendment in response to the Office Action so that prosecution of this application can be continued.

In accordance with 37 C.R.F. § 1.17(m), please charge the fee of \$55.00 for this petition to Deposit Account No. 50-2899, referencing docket number 16032.902140.

Applicant became aware that the application had become abandoned on or about 27-July-2004 upon receiving a call from the Examiner. Apparently, the USPTO data system in some manner got the instant case completely messed up.

The instant case is a U.S. National Phase of a PCT Application designating the United States. The case was filed from Crosby Heafey in Los Angeles, California. As is indicated by the enclosed copy of Missing Parts, the USPTO new the correct filing date and address for the undersigned attorney. After a considerable lapse of time no Office Action or other response had been received. The undersigned attorney attempted to check the status on Private PAIR but no entry was found. Upon calling the eBusiness Center at the USPTO the undersigned attorney was told that the PAIR system frequently fails to correctly associate cases with customer numbers. As a result, a written status request was made in April 2004 (copy enclosed). If the PTO had responded to the request in a timely manner, abandonment would have been avoided.

A copy of the mailing sheet for the Office Action is enclosed. It is plain that the USPTO somehow linked this Application Number with an incorrect inventor name as well as an incorrect filing date. The Office Action also informs applicants that no foreign priority document had been received. It would appear that the Examiner was also completely confused by the incorrect data.

The entire delay from the due date for the required response until the filing of this petition has been due to the need to communicate the Office Action to the inventors and receive their response. This abandonment was completely unavoidable. Applicants and their attorney made all the proper efforts to communicate with the Office. Applicants should not be held responsible for or penalized by such a serious failure on the part of the USPTO to properly maintain correct data records.

It is believed that no extension of time is required. However, should an extension of time be necessary to revive the above-identified application or to prevent the above-identified application from becoming abandoned again, please consider this a conditional petition for such an extension of time. Please charge any fee for such an extension of time to Deposit Account No. 50-2899, referencing docket number 16032.902140.

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If it should be determined that for any reason either an insufficient fee or an excessive has been paid, please charge any insufficiency or credit any overpayment necessary to ensure revival of the above-identified application to Deposit Account No. 50-2899, referencing docket number 16032.902140. A copy of this petition is enclosed.

Respectfully submitted,

LINER YANKELEVITZ
SUNSHINE & REGENSTREIF LLP

Date: August 19, 2004

By: Stefan J. Kirchanski
Stefan J. Kirchanski
Registration No. 36,568
Attorney for Applicant(s)

1100 Glendon Avenue, 14th Floor
Los Angeles, CA 90024
Phone: (310) 500-3500
Fax: (310) 500-3501